

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT
WESTERN DIVISION

LAILA GOMAA

Petitioner,

v.

**DRUG ENFORCEMENT
ADMINISTRATION**

**1 Prestige Place
Dayton, Ohio 45342**

Respondent.

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Case No. **3 : 07 cv 0332**
WALTER HERBERT RICE

PETITION FOR
WRIT OF PROHIBITION

I. JURISDICTIONAL STATEMENT

This court has original jurisdiction over Petitioner's Petition for Writ of Prohibition under 28 U.S.C. § 1331 and 28 U.S.C. §1361 and 28 U.S.C. 1651 as Petitioner violation of the Constitution of the United States specifically the Due Process Clause of the Fifth and Fourteenth Amendment, the Sixth Amendment right to counsel, the Fourth Amendment prohibition against unreasonable searches and seizures and the Fifth Amendment right against self-incrimination.

II. STATEMENT OF THE CASE AND FACTS

Petitioner, a medical doctor licensed in the State of Ohio and doing business as Prime Medical Health Services, 8120 Garnet Drive, Dayton, Ohio 45458, was confronted at her office by agents of the Drug Enforcement Administration and the Federal Bureau of Investigation, on September 4, 2007. The agents presented no warrant but after using coercive and deceptive statements and actions, forced the Petitioner to sign a Voluntary Surrender of Controlled Substances Privileges form (Exhibit 1). The Petitioner was without counsel and requested time to contact counsel but was denied such time and pressured to sign (Affidavit of Laila Gomaa) . During the time with the agents, the Petitioner had patients, in pain, waiting for procedures. The Petitioner was under duress and wanted to return to her patients but the agents stated that they would not leave until she signed. The Petitioner signed the form to remove the agents from her office and to prevent further interference with her patients and because she felt she had no choice (Affidavit of Laila Gomaa). The Petitioner has not been convicted of any crime, administrative or disciplinary infraction and there are no charges against me either criminal, administrative or disciplinary of any sort. The Petitioner treats approximately 1250 patients. She sees an average of 280 patients per week. She receives referrals from other doctors because these doctors will not accept Care Source Medicare patients and she is the only doctor these patients can see for treatment. Petitioner treats patients for chronic pain for conditions including: terminal cancer, failed back surgery syndromes, herniated disk syndromes, fractured vertebrae, reflex sympathetic disorder, osteomyolitis, neuritis, radiculitis, rheumatoid arthritis, osteoarthritis, migraine headache, post-operative pain, trigeminal neuralgia, carpal tunnel syndrome, tarsal tunnel

syndrome, peripheral. neuropathy and multiple sclerosis. These patients are prescribed controlled pain medications such as : oxycodone, percocet, hydrocodone, morphine, zanaflex, celebrex and naproxen. These patients must be maintained on their medications or withdrawal symptoms will occur. These symptoms include: fever, hot sweats, chills, vomiting, unremitting coughing fits, diarrhea, chronic insomnia, perpetual fatigue, increased blood pressure, increased respiratory rate, increased heart rate. The Petitioner asked the agents about the care of her patients but they were unconcerned. (Affidavit of Laila Gomaa)

There were no exigent circumstances requiring entry without a warrant and no necessity of pressuring the Petitioner to immediately give up her right to prescribe controlled substances or consult an attorney.

III. CONSTITUTIONAL CLAIMS FOR RELIEF

.In the present matter, the agents of the Respondent coerced their way into the Petitioner's office without a warrant. The Petitioner had patients awaiting medical procedures and the Petitioner did not give a voluntary consent for them to enter her office. There was no criminal conviction, administrative action or disciplinary action of which the Petitioner was found guilty or liable, nor was any such action pending. The agents appeared without notice and demanded a document for which they had no reason to ask, let alone coerce from the Petitioner. Further, when the Petitioner asked for time to consult an attorney, she was threatened.

The Petitioner has literally hundreds of patients for whom she is the only doctor who will treat them. As such, the taking of the Petitioner's ability to prescribe controlled substances

without a warrant, without benefit of counsel and without notice and an opportunity to be heard must be prohibited. Since the agents conducted themselves extra-judicially, there is no remedy at law available to the Petitioner.

Wherefore, the Petitioner requests that the Drug Enforcement Administration be prohibited from utilizing the Petitioner's Voluntary Surrender of Controlled Substances Privileges for in any way and that it further be prohibited from preventing the Petitioner from prescribing controlled substances.

Respectfully submitted,

/s/ George A. Katchmer
George A. Katchmer (0005031)
1804 East Third Street
Dayton, Ohio 45403
937/258-1800 phone
937/258-1810 facsimile
Attorney for Petitioner

CERTIFICATE OF SERVICE

A copy of the foregoing was served upon the Plaintiff's Attorney via Electronic Notification by the Clerk of Courts on this day of filing.

/s/ George A. Katchmer
George A. Katchmer (0005031)

U. S. Department of Justice - Drug Enforcement Administration

**VOLUNTARY SURRENDER OF CONTROLLED
SUBSTANCES PRIVILEGES**

DEA USE ONLY
File No.

After being fully advised of my rights, and understanding that I am not required to surrender my controlled substances privileges, I freely execute this document and choose to take the actions described herein.

☒ In view of my alleged failure to comply with the Federal requirements pertaining to controlled substances, and as an indication of my good faith in desiring to remedy any incorrect or unlawful practices on my part;

☐ In view of my desire to terminate handling of controlled substances listed in schedule(s) _____;

I hereby voluntarily surrender my Drug Enforcement Administration Certificate of Registration, unused order forms, and all my controlled substances listed in schedule(s) II-V as evidence of my agreement to relinquish my privilege to handle controlled substances listed in schedule(s) II-V. Further, I agree and consent that this document shall be authority for the Administrator of the Drug Enforcement Administration to terminate and revoke my registration without an order to show cause, a hearing, or any other proceedings, (and if not all controlled substances privileges are surrendered, be issued a new registration certificate limited to schedule(s) II-V).

I waive refund of any payments made by me in connection with my registration.

I understand that I will not be permitted to order, manufacture, distribute, possess, dispense, administer, prescribe, or engage in any other controlled substance activities whatever, until such time as I am again properly registered.

NAME OF REGISTRANT (Print)
Laila Ibrahim Gomaa, M.D.

ADDRESS OF REGISTRANT
8120 Garnet Drive
Dayton, Ohio 45458

DEA REGISTRATION NO.

05598264

NATURE OF REGISTRANT OR AUTHORIZED INDIVIDUAL

DATE

9/4/07

WITNESSES:

NAME AND DATE

TITLE

NAME AND DATE

TITLE

PRIVACY ACT

AUTHORITY: Section 301 of the Controlled Substances Act of 1970 (PL 91-513).

PURPOSE: Permit voluntary surrender of controlled substances.

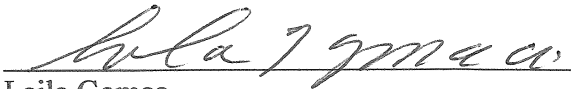
ROUTINE USES: The Controlled Substances Act Registration Records produces special reports as required for statistical analytical purposes. Disclosures of information from this system are made to the following categories of users for the purposes stated:

- A. Other Federal law enforcement and regulatory agencies for law enforcement and regulatory purposes.
- B. State and local law enforcement and regulatory agencies for law enforcement and regulatory purposes.
- C. Persons registered under the Controlled Substances Act (Public Law 91-513) for the purpose of verifying the registration of customers and practitioners.

EFFECT: Failure to provide the information will have no effect on the individual.


11. Many patients are prescribed controlled pain medications such as : oxycodone, percocet, hydrocodone, morphine, zanaflex, celebrex and naproxen.
12. These patients must be maintained on their medications or withdrawal symptoms will occur. These symptoms include: fever, hot sweats, chills, vomiting, unremitting coughing fits, diarrhea, chronic insomnia, perpetual fatigue, increased blood pressure, increased respiratory rate, increased heart rate.
13. These patients are in severe medical jeopardy since no other practitioner will accept them locally.
14. I had asked the agents about my patients but they were unconcerned.
15. I must treat my patients and this requires my ability to dispense controlled substances.
16. Had I not been under duress I would not have signed the Voluntary Surrender of Controlled Substances Privileges form.

FURTHER AFFIANT SAYETH NAUGHT.


Laila Goma

Before me, a Notary Public in and for said County and State, personally appeared the above-named Laila Goma, and acknowledged the signing of the foregoing instrument and that the same was a free act and voluntary deed.

IN TESTIMONY WHEREOF, I hereunto set my hand and official seal this 9 day of, ~~SEPTEMBER~~
2007.


Notary Public GEORGE A. KITCHMAN